

the format of the Controlled Business Arrangement Disclosure Statement set forth in appendix D of this part. This disclosure shall specify the nature of the relationship (explaining the ownership and financial interest) between the person performing settlement services (or business incident thereto) and the person making the referral, and shall describe the estimated charge or range of charges (using the same terminology, as far as practical, as section L of the HUD-1 or HUD-1A settlement statement) generally made by the provider of settlement services. The disclosure must be provided on a separate piece of paper no later than the time of each referral or, if the lender requires the use of a particular provider, the time of loan application, except that:

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#### § 3500.16 Title companies.

No seller of property that will be purchased with the assistance of a federally related mortgage loan shall violate section 9 of RESPA (12 U.S.C. 2608). Section 3500.2 defines “required use” of a provider of a settlement service. Section 3500.19(c) explains the liability of a seller for a violation of this section.

#### § 3500.17 Escrow accounts.

(a) *General.* This section sets out the requirements for an escrow account that a lender establishes in connection with a federally related mortgage loan. It sets limits for escrow accounts using calculations based on monthly payments and disbursements within a calendar year. If an escrow account involves biweekly or any other payment period, the requirements in this section shall be modified accordingly. A HUD Public Guidance Document entitled “Biweekly Payments—Example” provides examples of biweekly accounting and a HUD Public Guidance Document entitled “Annual Escrow Account Disclosure Statement—Example” provides examples of a 3-year accounting cycle that may be used in accordance with paragraph (c)(9) of this section. A HUD Public Guidance Document entitled “Consumer Disclosure for Voluntary Escrow Account Payments” provides a model disclosure format that originators and servicers are encouraged, but not required, to provide to consumers when the originator or servicer anticipates a substantial increase in dis-

bursements from the escrow account after the first year of the loan. The disclosures in that model format may be combined with or included in the Initial Escrow Account Statement required in § 3500.17(g).

(b) *Definitions.* As used in this section:

*Aggregate (or) composite analysis*, hereafter called *aggregate analysis*, means an accounting method a servicer uses in conducting an escrow account analysis by computing the sufficiency of escrow account funds by analyzing the account as a whole. Appendix E to this part sets forth examples of aggregate escrow account analyses.

*Annual escrow account statement* means a statement containing all of the information set forth in § 3500.17(i). As noted in § 3500.17(i), a servicer shall submit an annual escrow account statement to the borrower within 30 calendar days of the end of the escrow account computation year, after conducting an escrow account analysis.

*Cushion or reserve* (hereafter cushion) means funds that a servicer may require a borrower to pay into an escrow account to cover unanticipated disbursements or disbursements made before the borrower’s payments are available in the account, as limited by § 3500.17(c).

*Deficiency* is the amount of a negative balance in an escrow account. As noted in § 3500.17(f), if a servicer advances funds for a borrower, then the servicer must perform an escrow account analysis before seeking repayment of the deficiency.

*Delivery* means the placing of a document in the United States mail, first-class postage paid, addressed to the last known address of the recipient. Hand delivery also constitutes delivery.

*Disbursement date* means the date on which the servicer actually pays an escrow item from the escrow account.

*Escrow account* means any account that a servicer establishes or controls on behalf of a borrower to pay taxes, insurance premiums (including flood insurance), or other charges with respect to a federally related mortgage loan, including charges that the borrower and servicer have voluntarily agreed that the servicer should collect